

October 16, 1997

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

EX PARTE OR LATE FILED

Re: CC Docket No. 96-45; Ex Parte Notice

Dear Mr. Caton:

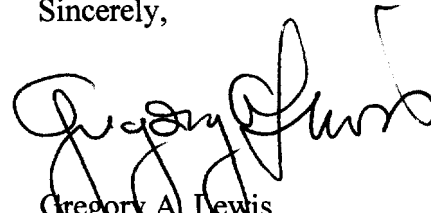
Pursuant to Section 1.200, et seq., of the Commission's Rules, National Public Radio, Inc. ("NPR") hereby notifies the Commission that NPR made the following *ex parte* presentations regarding the above-referenced proceeding.

By telephone on October 15, 1997, Betsy Laird, NPR's National Affairs Director and Gregory A. Lewis, Associate General Counsel, NPR, discussed NPR's pending request for clarification or waiver of the obligation to contribute to the universal service fund with Kathleen Franco, Office of Commissioner Chong.

In addition, NPR President Delano Lewis transmitted a letter dated October 15, 1997, to Commissioner Chong regarding the same proceeding and matter and attaching a copy of NPR's request for clarification or waiver. Two (2) copies of that letter and the attachment are enclosed herewith.

Please direct any questions you may have regarding this matter to the undersigned.

Sincerely,

  
Gregory A. Lewis  
Associate General Counsel

Enclosures

cc: Kathleen Franco, Office of Commissioner Chong (w/o enclosures)

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RECEIVED  
OCT 16 1997  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY



October 15, 1997

Honorable Rachelle B. Chong  
Federal Communications Commission  
1919 M Street, NW  
Suite 844  
Washington, DC 20554

Dear Commissioner Chong:

As you complete your work at the FCC, I wanted to commend you on your numerous accomplishments, particularly your contribution to the Commission's progress in implementing the 1995 Telecommunications Act.

In that regard, I am also writing about the universal service provisions of that Act. Specifically, I encourage you to act on the attached request for clarification and/or waiver filed by National Public Radio (NPR), as well as related requests filed by America's Public Television Stations (APTS), the Public Broadcasting Service (PBS) and a number of educational institutions and organizations.

NPR believes certain providers of telecommunications, such as public broadcasters, should not be required to contribute to the universal service fund for the following reasons:

- at the heart of public broadcasting is its noncommercial, educational purposes -- to educate, inform and enlighten listeners and viewers.
- there is a strong federal interest in the public broadcasting mission, both in the form of the annual appropriation for station, program and other system support and funding of the public radio and public television satellite interconnection systems. I do not believe it was the intent of Congress to provide public broadcasting with federal financial support and then to take back some of that support in the form of universal service fund contributions.
- any revenue generated by the public broadcasting is returned to the system or dedicated to other educational activities.
- as a practical matter, a determination now that public broadcasters must contribute to the universal service fund would require hundreds of stations and others to clarify their specific filing obligations, imposing significant administrative and financial burdens on the system.

Again, I hope you will keep these factors in mind and reach a decision on this very important matter to public broadcasting.

Best wishes to you in your future endeavors and please keep in touch.

Sincerely,



Delano E. Lewis  
President and CEO




September 15, 1997

William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, DC 20554

RECEIVED  
SEP 15 1997  
FEDERAL COMMUNICATIONS  
COMMISSION SECRETARY

Re: In the Matter of Federal-State Joint Board on Universal Service. CC Docket No. 96-45

Dear Mr. Caton:



Pursuant to the above-referenced matter, and on behalf of National Public Radio, Inc. ("NPR") and the more than 590 public radio stations NPR represents, I am writing to request clarification and/or waiver of the obligation of "other provider[s] of telecommunications" to contribute to the universal service fund. As explained below, and for the reasons more fully set forth in the joint petition filed by the Public Broadcasting Service ("PBS") and The Association of America's Public Television Stations ("APTS") and by a number of educational institutions and organizations, neither NPR nor noncommercial educational radio stations should be obligated to contribute to the universal service fund. See Petition For Clarification And Exception Or Waiver Of The Association Of America's Public Television Stations And The Public Broadcasting Service, CC Docket No. 96-45, filed Sept. 2, 1997; Petition For Clarification Of The Education Parties, CC Docket No. 96-45, filed Sept. 2, 1997.

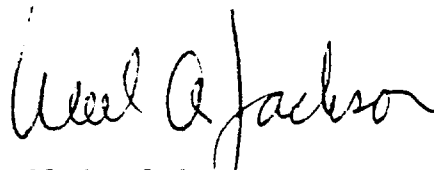
In its capacity as manager of the Public Radio Satellite System ("PRSS"), NPR provides satellite interconnection services to public telecommunications entities and others for the purpose of transmitting noncommercial educational and cultural programs. In order to subsidize the cost of operating the PRSS, and thereby reduce the prices charged to public radio users, NPR also leases excess satellite uplink and transponder capacity to commercial entities and others. As the Commission is undoubtedly aware, Congress provided a significant portion of the capital funds to establish the PRSS, and it expressly intended its preferential use for public telecommunications purposes and the leasing of excess capacity to subsidize the costs associated with such preferred uses. See 47 U.S.C. § 396(h)(2); S. Rep. No. 444, 100th Cong., 2d Sess. 6-7 (1988).

As a separate matter, noncommercial educational radio stations, including many NPR member stations, lease their subcarrier channel ("SCA") for uses squarely in the public interest, such as the transmission of radio reading services for the visually impaired, or to generate revenue to subsidize the station's primary public telecommunications services. The small amount of revenue associated with commercial leases of SCA capacity is nonetheless significant in relation to the operating budgets of many noncommercial educational radio stations.

Like the other petitioners, NPR does not believe that, by virtue of the activities described above, either NPR or noncommercial educational radio stations are "other providers of telecommunications" within the meaning of the universal service provisions of the Communications Act, 47 U.S.C. § 254(d). In particular, there is no basis to suggest that Congress intended to compromise its long-standing support for public broadcasting by requiring the contribution of scarce financial resources to the universal service fund. Moreover, even if nominally within the ambit of the Section 254, it would be contrary to the public interest to require NPR or noncommercial educational radio stations to contribute to the universal service fund.

Because the Commission's staff has informally interpreted Section 254(d) of the Communications Act to apply to entities such as NPR and public radio stations, a clarification of this matter is necessary. To the extent warranted by the Commission's clarification of the statute, moreover, NPR hereby formally requests a waiver of the obligation to contribute to the universal service fund on the grounds that such an obligation is contrary to the public interest.

Sincerely,



Neal A. Jackson  
Vice President, for Legal Affairs,  
General Counsel & Secretary



Peter J. Loewenstein  
Vice President, Distribution

cc: Diane Law, Esq.  
Common Carrier Bureau  
Alane C. Weixel, Esq.  
Counsel to PBS and APTS  
Kenneth D. Salomon, Esq.  
Counsel to American Council on Education, et al.